

FILED
LODGED

ENTERED
RECEIVED

JAN 19 2006 DB

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

CV06-0090 RSL

Civil Action No.

COMPLAINT FOR TRADE DRESS
INFRINGEMENT, FALSE
DESIGNATION OF ORIGIN,
TRADEMARK INFRINGEMENT,
UNFAIR COMPETITION, FALSE
ADVERTISING, VIOLATIONS OF THE
WASHINGTON CONSUMER
PROTECTION ACT



06-CV-00090-CMP

SHAKESPEARE COMPANY, LLC, a
Delaware limited liability company,
Plaintiff,

v.

SILSTAR CORPORATION OF AMERICA,
INC., a South Carolina corporation,
LFS, INC., a Washington corporation, and
STEPHEN WILTON, and individual d/b/a
SHINYSCREEN SOLUTIONS INC.,
Defendants.

Plaintiff, Shakespeare Company, LLC ("Shakespeare"), by and through its undersigned
counsel, respectfully makes the following allegations for its Complaint against Defendants,
Silstar Corporation of America, Inc. ("Silstar"), LFS, Inc., and Stephen Wilton d/b/a
ShinyScreen Solutions Inc. These allegations are made upon knowledge with respect to
Shakespeare and its own acts, and upon information and belief as to all other matters.

ORIGINAL

413539 5/15/05

INTRODUCTION

1
2 1. For almost thirty years, Shakespeare has sold a graphite and fiberglass fishing
3 rod which has been so successful that it is one of the best-selling fishing rods in the industry.
4 Shakespeare has developed several distinctive trademarks that help consumers identify and
5 distinguish its very successful rod including the trademark UGLY STIK and the distinctive
6 combination of a whitish translucent tip, opaque shaft, red and gold bands, and a red and gold
7 diamond pattern above the handle. The public has come to recognize and look for these
8 trademarks as an assurance that the rod originates from Shakespeare and is the quality product
9 commonly referred to verbally as the "Ugly Stik" rod.
10

11
12 2. In an effort to trade on Shakespeare's thirty years of hard-won success with the
13 Ugly Stik rod, Defendant Silstar has imitated Shakespeare's trademarks to help sell its
14 competing fishing rod called the PowerTip Pro. Silstar's gambit is likely to cause and in fact
15 has caused confusion among consumers looking to purchase a genuine Shakespeare Ugly Stik
16 rod.
17

18 3. In addition to copying Shakespeare's trademarks, Silstar also has resorted to
19 false and fraudulent advertising of its PowerTip Pro in an effort to make consumers think that
20 its rod has the same graphite core composition as a genuine Shakespeare Ugly Stik rod. In fact,
21 tests of the PowerTip Pro rod reveal that it has no graphite core. This and other false and
22 fraudulent claims by Silstar about its product not only deceive the public in Washington and the
23 rest of the country but also injure Shakespeare by having its valuable Ugly Stik rod trademarks
24 wrongly associated with a Silstar rod that lacks what it promises.
25
26
27

5. Plaintiff Shakespear is a limited liability company organized under the laws of the State of Delaware and having a principal place of business at 3801 Westmore Drive, Columbia, South Carolina 29223. Shakespeare's intellectual property rights, including its trademarks, trade dress, and copyrights, are managed on its behalf by sister company K-2 Corporation, an Indiana corporation having a principal place of business at 19215 Vashon Highway S.W., Vashon, Washington 98070. Shakespeare and K-2 Corporation are each subsidiaries of K2 Inc., a Delaware corporation having a principal place of business at 5818 El Camino Real, Carlsbad, California 92008.

7. Defendant LFS, Inc. is a Washington corporation with a place of business at 851 Coho Way, Bellingham, Washington 98225.

8. Defendant Stephen Wilton is an individual doing business as ShinyScreen Solutions Inc. at 1124 Fir Avenue, Blaine, Washington 98230. The registration information for the domain name www.shinyoutdoors.com identifies the domain owner as ShinyScreen Solutions Inc. and identifies Mr. Wilton as the technical, registrant, and administrative contact. The business ShinyScreen Solutions Inc. is not registered as a corporation with the State of Washington.

JURISDICTION AND VENUE

9. This is a civil action for trademark infringement, trade dress infringement, unfair competition, and false advertising arising under the common law and the Lanham Act, 15 U.S.C. § 1051 et seq., and for violations of the Washington State Consumer Protection Act, RCW 19.86 et seq. Federal subject matter jurisdiction is found in 28 U.S.C. §§ 1331 (federal question), 1367 (supplemental), 1338(a) (trademark), and 1338(b) (related claims of unfair competition), and 15 U.S.C. § 1121 (Lanham Act actions).

10. Defendants do regular business in this judicial district. Defendants have also committed acts of trademark infringement, trade dress infringement, unfair competition, and false advertising, and violations of the Washington State Consumer Protection Act by selling, distributing, advertising, and marketing the PowerTip Pro in this judicial district.

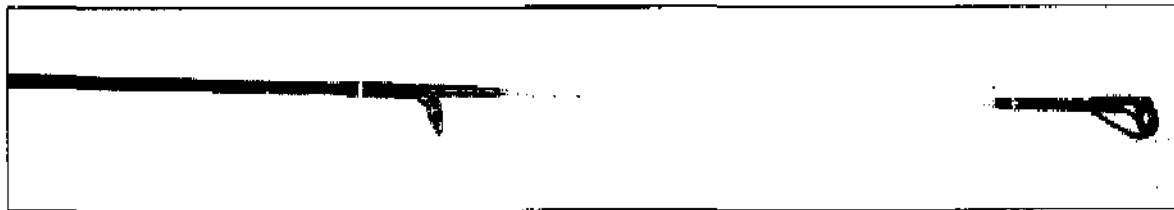
11. Venue is proper in this district under 28 U.S.C. § 1391.

PLAINTIFF SHAKESPEARE'S RIGHTS

12. Shakespeare is one of the world's most well-known and successful manufacturers and distributors of fishing tackle, including fishing rods, fishing reels, and related accessories. Shakespeare's products have been sold for more than 100 years and have provided customers with consistent characteristics and quality. Shakespeare's customers and the public have come to rely upon and look for Shakespeare's trademarks and trade dress to identify products originating from Shakespeare. As a consequence, Shakespeare's name, trademarks, and trade dress have come to symbolize valuable goodwill and reputation. Shakespeare has produced, advertised, sold, and distributed its products throughout the United States and the world.

1 13. Since 1976, Shakespeare has produced, advertised, sold, and distributed fishing
2 rods that have the distinctive appearance of: (1) a whitish translucent (i.e., clear) tip between
3 approximately the end of the rod and the second line guide, in combination with (2) an opaque
4 shaft from approximately the second line guide down to the rod base. This distinctive
5 combination of clear from the tip to the second line guide and opaque below that point has come
6 to be commonly known as the "Clear Tip" mark.

8 14. The Clear Tip mark has appeared on a line of Shakespeare fishing rods known as
9 the "Ugly Stik" line, which has included, among others, the Ugly Stik and Ugly Stik Lite
10 fishing rods. Shakespeare's extensive advertising and sales of Ugly Stik fishing rods bearing
11 the Clear Tip mark has resulted in widespread recognition by the purchasing public of the Clear
12 Tip mark as an indication that the rod upon which the Clear Tip mark appears originates from
13 Shakespeare. An example of an Ugly Stik rod having the Clear Tip mark is shown in Exhibit A
14 and is illustrated below:
15



21 *Ugly Stik Clear Tip Mark*

22 15. The Ugly Stik fishing rod contains a strong but light graphite core coated in
23 longitudinal fiberglass strands and ending in a solid fiberglass tip. By virtue of extensive
24 advertising, a high quality product, and the distinctiveness of the "Clear Tip" mark, the Ugly
25 Stik rod has become one of the best-selling fishing rods in the industry.
26
27

1 16. The Ugly Stik rod is not the only fishing rod that contains a graphite core and a
2 fiberglass coating and tip. Other companies sell rods with similar materials but use different
3 colors on the tip portion of the rod than Shakespeare, including opaque colored tips as well as
4 tinted translucent tips. In this diverse marketplace, the public has come to associate a fishing
5 rod bearing the Clear Tip mark with Shakespeare only and specifically with Shakespeare's Ugly
6 Stik fishing rods.

7
8 17. Shakespeare has been granted a United States Trademark Registration for its
9 Clear Tip trademark. Specifically, Shakespeare is the owner of United States Trademark
10 Registration No. 1,261,786, issued December 20, 1983, for fishing rods (hereafter the "'786
11 Registration'"), a copy of which is attached hereto as Exhibit B. The '786 Registration claims a
12 mark that is described by the registration as follows:
13

14 The mark is used by applying it to the goods in that the mark is the
15 color configuration of the fishing rod as shown in the drawing in
16 which the tip portion of the shaft between the tip and the second
17 line guide elements consists of a whitish, translucent material in
18 contrast to the opaque remainder of the shaft. The unshaded
19 portion of the drawing represents the whitish, translucent tip
20 portion feature on the shaft.

21 The '786 Registration constitutes prima facie evidence that fishing rods with Shakespeare's
22 Clear Tip trademark are distinctive; that Shakespeare owns the exclusive right to use the mark
23 claimed by the registration; and that the registration is valid. The '786 Registration is in full
24 force and effect. The Clear Tip mark applied to a fishing rod has therefore become a valuable
25 trademark owned and registered by Shakespeare.

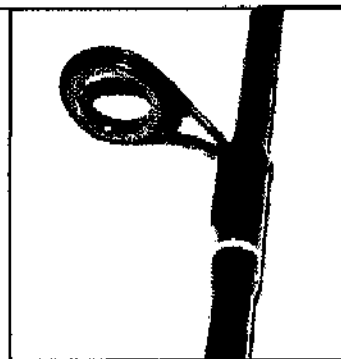
26 18. In addition to the Clear Tip mark, customers also recognize Shakespeare and its
27 Ugly Stik rod on the basis of other distinguishing trademarks and trade dress. Among these
additional marks are distinctive diamond weave patterns formed by a combination of red and

gold lines located on the area of the rod immediately above the handle (hereafter referred to as the "Red-Gold Diamond marks"). Examples of Ugly Stik rods having variations of the distinctive Red-Gold Diamond marks are shown in Exhibit A. This feature is also shown below as it appears on the Ugly Stik (left) and the Ugly Stik Lite (right) fishing rods:



Examples of Ugly Stik Red-Gold Diamond Marks

19. Customers also have come to recognize Shakespeare and its Ugly Stik rod for the rod's distinctive combination of the following features: the Clear Tip mark, distinctive Red-Gold Diamond marks, red and gold bands below each line guide, and dark-colored line guides (hereafter referred to as the "Overall Ugly Stik trade dress"). Examples of Ugly Stik rods having the Overall Ugly Stik trade dress are shown in Exhibit A. The additional features that make up the Overall Ugly Stik Trade Dress, including the dark-colored line guides in combination with the red and gold bands under each line guide, are shown below:



Ugly Stik Line Guides and Red-Gold Bands

1 20. Shakespeare is also the owner of rights in trade dress embodied and depicted by
2 the distinctive label attached hereto as Exhibit C (hereafter referred to as the "Shakespeare
3 Label"). The Shakespeare Label has been affixed to Ugly Stik fishing rods sold and distributed
4 in commerce by Shakespeare throughout the United States.

5
6 **PRIOR LITIGATION BETWEEN SHAKESPEARE AND SILSTAR**

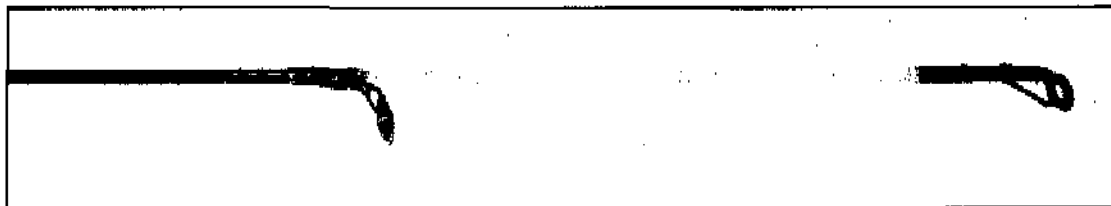
7 21. On July 20, 1990, Shakespeare filed a Complaint against Silstar in the United
8 States District Court for the District of South Carolina, which case was assigned Civil Action
9 No. 3-90-1695-15. In this prior litigation, Shakespeare asserted that a Silstar product called the
10 PowerTip Crystal infringed Shakespeare's registered Clear Tip trademark. Ultimately, the
11 District Court found that Silstar's PowerTip Crystal product was a "fair use" of Shakespeare's
12 Clear Tip trademark because the PowerTip Crystal was sold in the appearance that naturally
13 resulted from the manufacturing process. The District Court also found that the PowerTip
14 Crystal sold in the unembellished condition that resulted naturally from the manufacturing
15 process was not likely to be confused with the Shakespeare Ugly Stik rod having the Clear Tip
16 mark. The District Court's opinion is reported at 906 F. Supp. 997 (D.S.C. 1995). The decision
17 was affirmed by the United States Court of Appeals for the Fourth Circuit, whose opinion is
18 reported at 110 F.3d 234 (4th Cir. 1997).

19
20
21 **SILSTAR'S NEW INFRINGING ACTIVITIES**

22
23 22. Silstar has discontinued the PowerTip Crystal rod that was the subject of the
24 prior litigation between the parties and replaced it with a different line of rods called the
25 PowerTip Pro. These new PowerTip Pro rods are confusingly similar to Shakespeare's Ugly
26 Stik rods and incorporate the trademarks and trade dress used by Shakespeare to identify its
27 Ugly Stik rods.

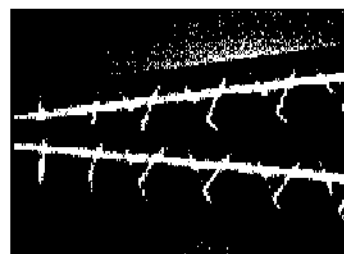
23. Silstar is selling and distributing in commerce the PowerTip Pro fishing rods throughout the United States and in the State of Washington.

24. Silstar's PowerTip Pro rod incorporates Shakespeare's Clear Tip mark (including the mark shown by the '786 Registration), as shown in Exhibit D and below:



Clear Tip Mark as Used on Silstar's PowerTip Pro

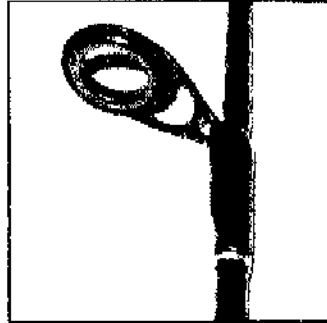
25. Silstar's PowerTip Pro rod also incorporates a variation of Shakespeare's Red-Gold Diamond marks, as shown in Exhibit D. In fact, Silstar's website draws particular attention to this feature of its rod by including the following close-up picture of its rod:



Red-Gold Diamond Mark as Used on Silstar's PowerTip Pro

26. Silstar's PowerTip Pro rod also incorporates Shakespeare's Overall Ugly Stik trade dress, including the Clear Tip mark, a variation of the Red-Gold Diamond marks, dark-colored line guides, and red and gold bands under each line guide, as shown in Exhibit D. Photographs of Silstar's use of Shakespeare's Clear Tip mark and Red-Gold Diamond marks on the PowerTip Pro rod are shown above in paragraphs 24 and 25, respectively. Shown below is

1 the PowerTip Pro's use of the additional features that make up the Overall Ugly Stik trade
2 dress, namely the dark-colored line guides and red and gold bands:



9
10 *Dark-Colored Line Guides and Red-Gold Bands on Silstar's PowerTip Pro*

11 27. Silstar is selling and distributing its PowerTip Pro fishing rods in commerce in
12 association with the label attached hereto as Exhibit E (hereafter referred to as the "Silstar
13 Hangtag"). The Silstar Hangtag incorporates Shakespeare's trademarks and trade dress rights
14 and is confusingly similar to the Shakespeare Label sold and distributed in commerce in
15 association with the Ugly Stik rods.
16

17 28. The Silstar Hangtag also is substantially similar to the Shakespeare Label.
18 Because Shakespeare has sold and distributed fishing rods upon which the Shakespeare Label
19 was affixed throughout the United States, Silstar had access to the Shakespeare Label prior to
20 producing the Silstar Hangtag.
21

22 29. Silstar's sale, distribution, marketing, and advertising of fishing rods that
23 incorporate the Clear Tip mark (including the mark shown by the '786 Registration), the Red-
24 Gold Diamond marks, and the Overall Ugly Stik trade dress, as well as Silstar's use of the
25 Silstar Hangtag, are likely to cause confusion, to cause mistake, or to deceive customers and the
26
27

1 public into believing that Silstar's goods originate from Shakespeare or that Silstar's goods are
2 associated with or endorsed by Shakespeare.

3 30. Silstar's sale, distribution, marketing, and advertising of fishing rods that
4 incorporate the Clear Tip mark (including the mark shown by the '786 Registration), the Red-
5 Gold Diamond marks, and the Overall Ugly Stik trade dress, as well as Silstar's use of the
6 Silstar Hangtag, constitute infringement of trademarks and trade dress rights owned and used in
7 commerce by Shakespeare.

8
9 31. On information and belief, Silstar has copied the Clear Tip mark (including the
10 mark shown by the '786 Registration), the Red-Gold Diamond marks, the Ugly Stik trade dress,
11 and the Shakespeare Label in an attempt to trade upon the valuable goodwill and reputation
12 owned by Shakespeare.

13
14 32. On information and belief, Silstar's infringement of Shakespeare's trademarks
15 and trade dress complained of herein has been willful and in bad faith.

16
17 33. The PowerTip Pro fishing rods currently being sold by Silstar are substantially
18 different in composition and appearance from the PowerTip Crystal rods that were the subject
19 of prior litigation between Shakespeare and Silstar. For example, unlike the PowerTip Crystal
20 rods, the PowerTip Pro rods are not sold in the appearance naturally resulting from the
21 manufacturing process. Instead, the new PowerTip Pro rods are painted a dark, opaque color
22 from the handle to the second line guide, leaving only the portion above the second line guide in
23 a whitish translucent color. Also unlike the PowerTip Crystal, the PowerTip Pro includes above
24 the handle a copy of Shakespeare's Red-Gold Diamond marks made of red and yellow lines.
25 Also unlike the PowerTip Crystal, the PowerTip Pro includes black line guides as well as red
26
27

1 and gold bands below each line guide. And also unlike the PowerTip Crystal, the PowerTip Pro
2 does not contain a core made of graphite.

3 **SILSTAR'S FALSE AND FRAUDULENT ADVERTISING**

4 34. A graphite core is a feature of a fishing rod valued by customers.

5 35. Silstar expressly states in its advertising and on its website that the PowerTip Pro
6 contains a graphite core. For example, as shown in Exhibit D, Silstar's website, which is found
7 at www.silstar.com, describes the PowerTip Pro as follows: "Pinnacle® PowerTip® Pro Rods
8 feature our Dual Layer Blank Construction. In this process, a protective shield of longitudinal
9 super-strong glass fibers is wrapped around a super-sensitive, high-density graphite core."
10 Likewise, the Silstar Hangtag, attached hereto as Exhibit E, implies that the PowerTip Pro
11 contains a graphite core.
12

13 36. In fact, the PowerTip Pro contains no graphite core. Thus, Silstar's
14 representation that the core of the PowerTip Pro contains graphite misrepresents to customers
15 the nature, quality, and composition of the PowerTip Pro rods.
16

17 37. Silstar also expressly states in its advertising and on its website that the
18 PowerTip Pro contains a solid fiberglass tip that is "unbreakable." For example, on its website,
19 Silstar includes the following description of the PowerTip Pro: "At the top of the rod, these
20 fibers come together to form a solid, unbreakable fiberglass tip, so you're assured of a super-
21 strong, long-lasting rod that will transmit even the gentlest nibble." Strength of the tip of a
22 fishing rod is a feature valued by fishing rod customers.
23

24 38. In fact, the fiberglass tip of the PowerTip Pro is capable of being broken. Thus,
25 Silstar's representation that the PowerTip Pro's tip is unbreakable falsely misrepresents to
26 customers the nature, quality, and composition of the PowerTip Pro rods.
27

THE HARM TO SHAKESPEARE AND THE PUBLIC CAUSED BY SILSTAR

39. The result of Silstar's unlawful use of Shakespeare's trademarks and trade dress complained of herein has been irreparable harm to Shakespeare's reputation and goodwill and actual deception of and damage to consumers. Shakespeare will continue to suffer such irreparable injury to its reputation and goodwill unless Silstar is enjoined from continuing the conduct complained of, which injury cannot be adequately compensated monetarily. As long as Silstar is allowed to continue the acts complained of, Shakespeare's reputation is at Silstar's mercy.

40. Likewise, Silstar's false and fraudulent representation of the nature, quality, and composition of its PowerTip Pro rods deceives the public and causes harm to the public as well as to Shakespeare.

INFRINGING ACTIVITIES OF THE OTHER DEFENDANTS

41. Defendant LFS, Inc. is identified by Silstar as a distributor of Silstar products. LFS has distributed in commerce infringing PowerTip Pro fishing rods to retailers in the State of Washington.

42. Defendant Stephen Wilton d/b/a ShinyScreen Solutions Inc. operates a website accessible on the internet at the URL www.shinyoutdoors.com. On this website, Mr. Wilton sells infringing PowerTip Pro fishing rods and ships them in commerce to purchasers from its Blaine, Washington location, including to customers located in Washington.

**- COUNT 1
TRADE DRESS INFRINGEMENT**

43. Shakespeare incorporates the allegations stated by Paragraphs 1-42 as if fully set forth herein.

1 44. Defendants' actions described herein constitute trade dress infringement in
2 violation of the Lanham Act, 15 U.S.C. § 1125(a) and the common law.

3 **COUNT 2**
4 **FALSE DESIGNATION OF ORIGIN UNDER THE LANHAM ACT**

5 45. Shakespeare incorporates the allegations stated by Paragraphs 1-42 as if fully set
6 forth herein.

7 46. Defendants' actions described herein constitute a false designation of origin in
8 violation of the Lanham Act, 15 U.S.C. § 1125(a).

9 **COUNT 3**
10 **FEDERAL TRADEMARK INFRINGEMENT**

11 47. Shakespeare incorporates the allegations stated by Paragraphs 1-42 as if fully set
12 forth herein.

13 48. Shakespeare's '786 Registration is incontestable pursuant to the provisions of the
14 Lanham Act, 15 U.S.C. § 1065.

15 49. Defendants' actions described herein constitute infringement of Shakespeare's
16 '786 Registration, in violation of the Lanham Act, 15 U.S.C. §§ 1114-1118.

17 **COUNT 4**
18 **COMMON LAW TRADEMARK INFRINGEMENT AND**
19 **UNFAIR COMPETITION**

20 50. Shakespeare incorporates the allegations stated by Paragraphs 1-42 as if fully set
21 forth herein.

22 51. Defendants' actions described herein constitute common law trademark
23 infringement and unfair competition in violation of the laws of the State of Washington and the
24 laws of the several states.
25
26
27

**COUNT 5
FEDERAL FALSE ADVERTISING**

52. Shakespeare incorporates the allegations stated by Paragraphs 1-42 as if fully set forth herein.

53. Silstar's actions described herein constitute false advertising under 15 U.S.C. § 1125(a).

54. Specifically, Silstar is falsely stating and representing in advertisements that the PowerTip Pro fishing rods that they sell contain a graphite core and an unbreakable tip. These misrepresentations are likely to deceive and have deceived consumers and are likely to be and have been material to consumers' purchasing decisions.

55. Silstar's misrepresentations have caused injury to Shakespeare.

**COUNT 6
VIOLATIONS OF THE WASHINGTON
STATE CONSUMER PROTECTION ACT**

56. Shakespeare incorporates the allegations stated by Paragraphs 1-42 as if fully set forth herein.

57. Defendants' conduct described herein is likely to cause, confusion, mistake and to deceive the public into believing that Plaintiffs' products and services are sponsored by, approved by, or affiliated with Defendant, and such actions affect the public interest and will be injurious thereto, in violation of Washington State Unfair Business Practices and Consumer Protection Act, RCW 19.86 et seq. Silstar is also falsely stating and representing that the PowerTip Pro fishing rods that they sell contain a graphite core and an unbreakable tip, also in violation of RCW 19.86 et seq.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Shakespeare prays for relief against Defendants in the form of the following relief and any further relief the Court may deem just and proper under the circumstances:

A. Granting a permanent injunction against Defendants and their servants, agents, employees, successors and assigns, and all persons acting in concert with them, enjoining them from:

- (1) using in any manner the Clear Tip mark (including the mark shown by the '786 Registration) or any other mark confusingly similar thereto;
- (2) using in any manner the Red-Gold Diamond marks or any other mark confusingly similar thereto;
- (3) using in any manner the Overall Ugly Stik trade dress or any other trade dress confusingly similar thereto;
- (4) using in any manner the Silstar Hangtag or any other hangtag confusingly to the Shakespeare Label;
- (5) infringing Shakespeare's trademarks, trade dress, and copyrights identified herein;
- (6) disseminating, using, or distributing any advertising or promotional materials, electronic or otherwise that state or imply that Silstar's PowerTip Pro fishing rod contains a graphite core or an unbreakable tip; and
- (7) using or disseminating any false or misleading statements as to the nature, quality, or characteristics of Silstar's PowerTip Pro fishing rod;

B. Requiring Defendants to deliver up to Shakespeare for destruction all goods, signs, advertisements, literature, business forms, cards, labels, packages, wrappers, pamphlets,

1 brochures, receptacles, and any other written or printed material in their possession or under
2 their control which contain or encompass Shakespeare's Clear Tip mark, Red-Gold Diamond
3 mark, Overall Ugly Stik trade dress, or any colorable imitations thereof or any marks or trade
4 dress confusingly similar thereto or which contain any false or misleading representation of
5 fact;
6

7 C. Awarding compensatory damages sustained by Shakespeare as a result of the
8 acts complained of herein pursuant to federal and state law, to be trebled in accordance with 15
9 U.S.C. § 1117;
10

11 D. Awarding Shakespeare its attorneys' fees pursuant to 15 U.S.C. § 1117 and other
12 applicable federal and state laws;

13 E. Awarding Shakespeare punitive damages for Defendants' willful and egregious
14 deception of consumers and infringement of Shakespeare's rights in violation of both statutory
15 and common law; and
16

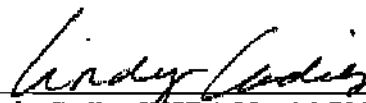
17 F. Awarding Shakespeare interest, costs, and such other relief as the Court may
18 deem just and equitable.

19 **JURY DEMAND**

20 Shakespeare hereby demands a trial by a jury of all issues so triable.

21
22 DATED: January 18, 2006

By:


Cindy Caditz, WSBA No. 16,701
KLARQUIST SPARKMAN, LLP
999 Third Avenue, Suite 4200
Seattle, WA 98104
Telephone: 206-264-2960
Facsimile: 206-624-2719
E-mail: cindy.caditz@klarquist.com



Ugly Stik®

After 29 years, the Ugly Stik® continues to be the Number One selling rod of all time. Join the millions of loyal



Ugly Stik® fans if your rods require incredible strength, sensitivity and versatility. If it's Ugly, it's got to be Shakespeare!

The Ugly Stik® is built Ugly tough featuring an "Ugly Back" 70-day/7-year warranty on freshwater rods and a 60-day/5-year limited warranty on all other rods



Ugly Stik®

Complete catfish and striped rod series

Ugly Stik® Lite®

Graphite

All inshore rods have stainless steel guides

Ugly Stik® Custom *GRASSLINE*

Ugly Stik® Custom

It's like owning a custom built rod!

Ugly Stik® Big Water

Over 40 saltwater models!

Ugly Stik® Tiger

Fresh or saltwater big game rod

Shakespeare®

[History](#) | [Products](#) | [Where to buy us](#) | [Stories](#) | [Youth education](#)
[Articles](#) | [Service](#) | [Antiques](#) | [Contact us](#) | [Links](#)

**Complaint
EXHIBIT A**

UGLY STIK FRESHWATER RODS

Ugly Stik®

ANYTHING ELSE IS JUST A ROD

- Ugly Stik Clear Tip® design for guaranteed strength and sensitivity.
- All Ugly Stik rods feature blank-through-handle construction for added strength and sensitivity.
- Durable and lightweight EVA grips. Spinning models have an EVA insert on top of reel seat for added comfort.
- Graphite twist-lock reel seats are standard on most models.
- Ugly Stik Classic models feature conventional reel seats with cushioned stainless steel hoods on spinning models.
- Guides feature black stainless steel frames and aluminum oxide inserts.
- Ugly Stik Classic models feature double-footed, chrome-plated stainless steel wire frame guides with aluminum oxide inserts.
- Ferruleless design on two-piece models for the strength and feel of a one-piece rod.
- Over 40 actions to choose from for all freshwater fishing applications.
- Exclusive 70 day / 7 year warranty.

For guaranteed strength and sensitivity, look for the
Ugly Stik Clear Tip® design.

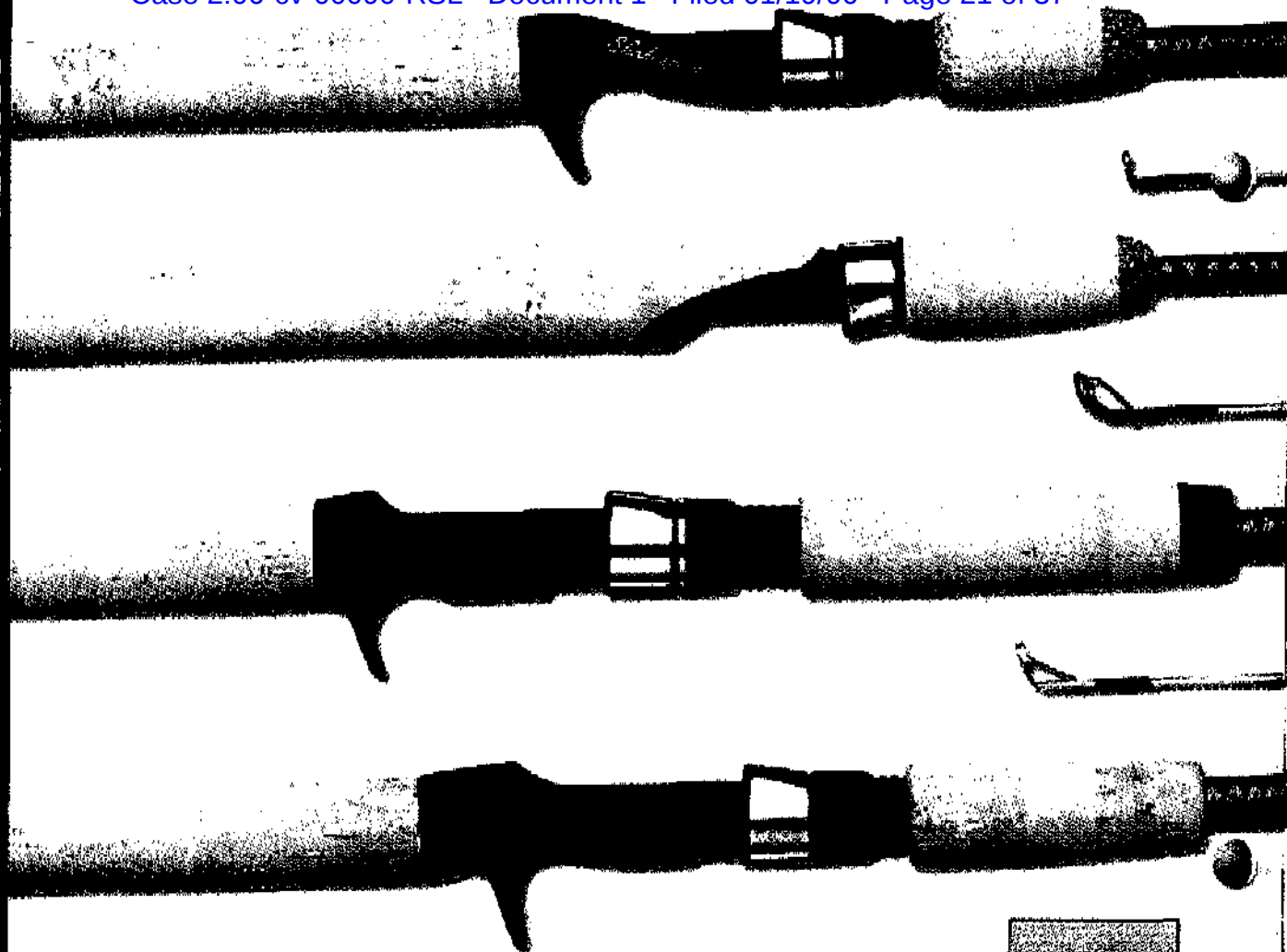


For over 25 years, the Ugly Stik rod has been unmatched in strength and durability. America knows and trusts Ugly Stik rods for all their fishing applications.



Complaint
EXHIBIT A

UGLY STIK LITE RODS



Ugly Stik [®] Lite *Graphite*

Ugly Stik Lite Graphite Freshwater Rods

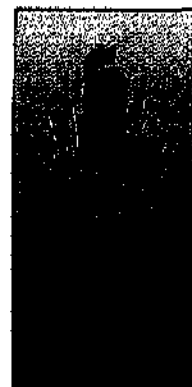
- Ugly Stik Lite Graphite rods feature higher graphite content for added sensitivity and lighter weight.
- *Ultimate Guide System* features black stainless steel frames with durable polished stainless steel inserts.
- Howard Process™ Triple-Built™ blank featuring graphite/glass/graphite construction making the Ugly Stik Lite stronger, thinner, lighter and more sensitive.
- Ugly Stik Clear Tip® design for guaranteed strength and sensitivity.
- Top-grade cork handles with "Comfort-Fit" exposed blank reel seats on casting models and new twist-lock reel seats with cushioned stainless steel hoods on spinning models.
- Blank-through-handle construction for added strength and sensitivity.
- Fly Rod features aluminum oxide guides, stainless steel snake guides and top-grade cork handles.

Ugly Stik Lite Inshore Rods

- Casting models feature quick-taper action for throwing large lures.
- Spinning models feature even-taper parabolic actions for throwing live bait.
- Graphite reel seats with cushioned stainless steel hoods.
- Stainless steel double-bridged guides with rugged polished stainless steel inserts.
- Top-grade cork grips with rubber butt caps.
- Blank-through-handle construction for added strength and sensitivity.

Ugly Stik Lite® Salmon/Steelhead Rods

- Improved actions for responsive feel.
- Graphite Fuji® reel seats with cushioned stainless steel hoods.
- Stainless steel double-bridged guides with durable stainless steel inserts.
- Top-grade cork grips.



Our exclusive Howard Process™ Triple-Built™ blank consists of a graphite inner core for strength, E-Glass middle layer for flexibility, and an outer layer of graphite for added sensitivity.

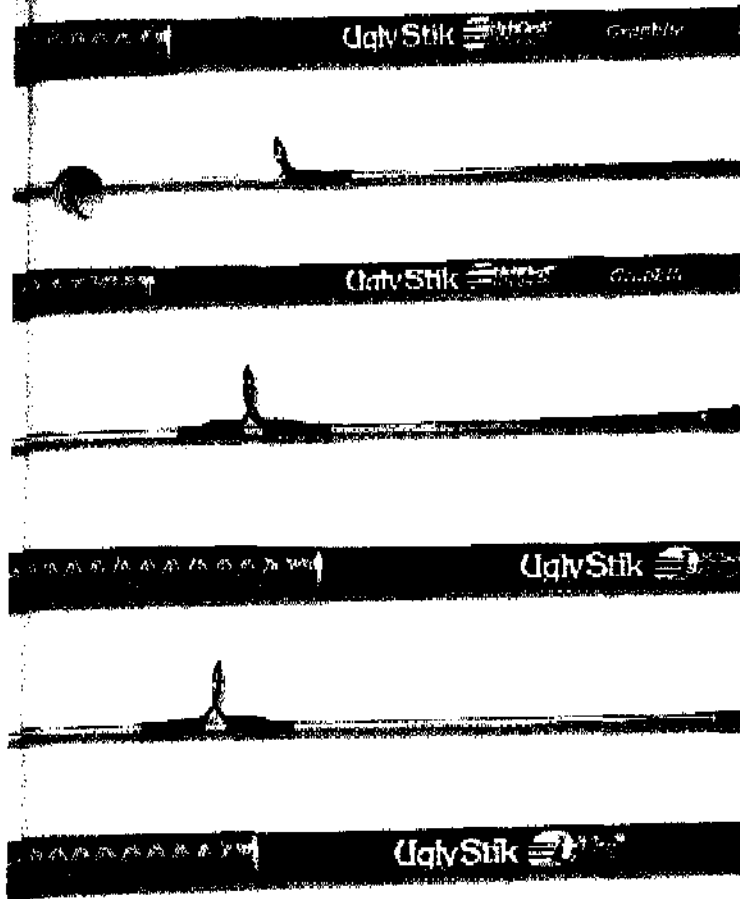


For guaranteed strength and sensitivity, look for the Ugly Stik Clear Tip® design.

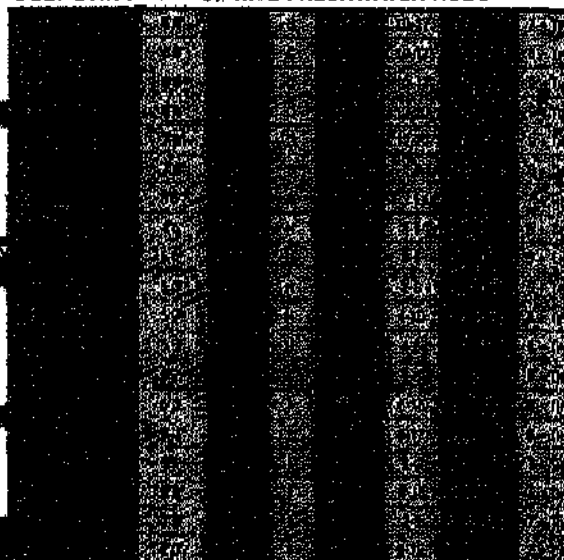


**Complaint
EXHIBIT A**

UGLY STIK LITE RODS



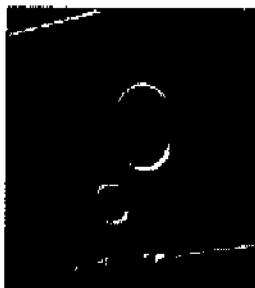
UGLY STIK LITE GRAPHITE FRESHWATER RODS



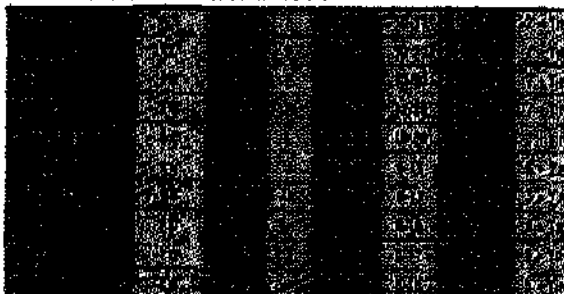
1. Ugly Stik Lite Graphite Freshwater Rods are made of high quality graphite and are designed for use in freshwater environments. They are available in a variety of lengths and weights.



Stainless steel guides with stainless steel inserts provide expandability, durability and lighter weight. Plus, they are also less abrasive on line.

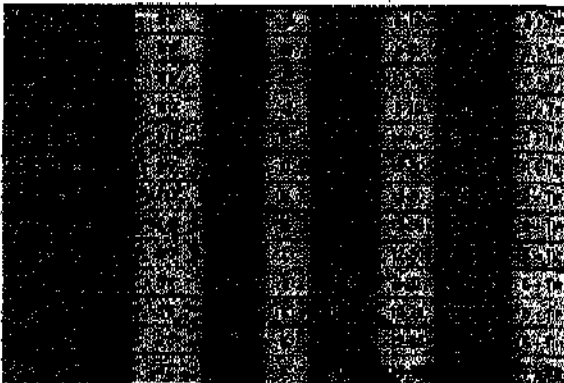


UGLY STIK LITE INSHORE RODS



1. Ugly Stik Lite Inshore Rods are made of high quality graphite and are designed for use in inshore environments. They are available in a variety of lengths and weights.

UGLY STIK LITE SALMON/STEELHEAD/MUSKIE RODS

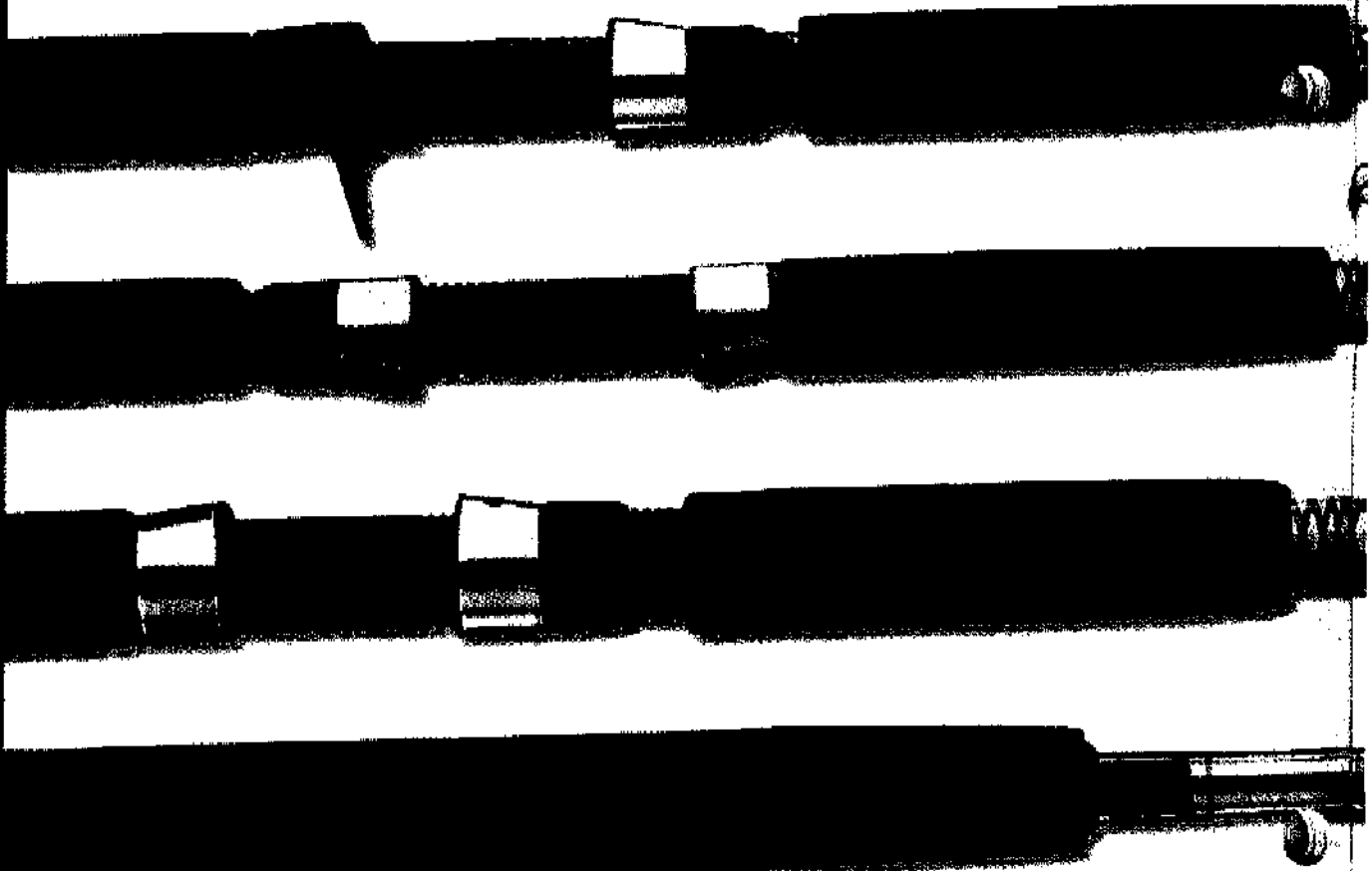


1. Ugly Stik Lite Salmon/Steelhead/Muskie Rods are made of high quality graphite and are designed for use in saltwater environments. They are available in a variety of lengths and weights.



Complaint
EXHIBIT A

UGLY STIK BIGWATER RODS



Ugly Stik®

BIG WATER RODS

- Durable, lightweight EVA grips, graphite Fuji® reel seats with corrosion resistant stainless steel hoods.
- Blank-through-handle construction for added strength and sensitivity on all models.
- Ugly Stik Clear Tip® design for guaranteed strength and sensitivity. • Epoxy-coated blanks for protection from UV rays.
- Top quality Fuji® guides feature stainless steel frames and aluminum oxide inserts.
- Downrigger rods will not "take a set" as conventional cloth rods will.
- BWR model boat rods feature metallic underwraps with aluminum oxide guides, nylon gimballs, and rubber butt caps.
- Stand-up designs (BWSU models) feature AFTCO® HD roller guides, tip top and machined aluminum reel seats.
- Exclusive "Ugly Back" 60-day/5-year warranty.

For guaranteed strength and sensitivity, look for the Ugly Stik Clear Tip® design.



**Complaint
EXHIBIT A**

Int. Cl.: 28

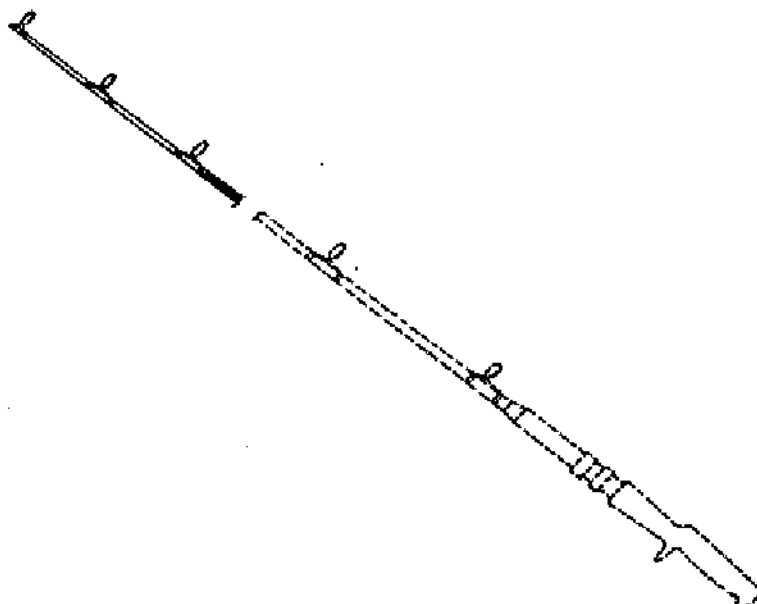
Prior U.S. Cl.: 22

United States Patent and Trademark Office

Reg. No. 1,261,786

Registered Dec. 20, 1983

TRADEMARK
Principal Register



Shakespeare Company (Delaware corporation)
P.O. Box 246
Columbia, S.C. 29202

For: FISHING RODS, in CLASS 28 (U.S. Cl. 22).

First use Mar. 9, 1976; in commerce Apr. 7, 1976.

Applicant claims no proprietary right in the configuration of the fishing rod itself as a trademark when it lacks the whitish, translucent tip portion feature.

The mark is used by applying it to the goods in

that the mark is the color configuration of the fishing rod as shown in the drawing in which the tip portion of the shaft between the tip and the second line guide elements consists of a whitish, translucent material in contrast to the opaque remainder of the shaft. The unshaded portion of the drawing represents the whitish, translucent tip portion feature on the shaft.

Sec. 2(f).

Ser. No. 169,243, filed May 5, 1978.

W. A. CONN, Examining Attorney

Complaint
EXHIBIT B



United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System(Tess)

TESS was last updated on Tue Jan 17 04:11:32 EST 2006

[Home](#)
[New User](#)
[Search Tips](#)
[FAQ](#)
[Glossary](#)
[Guides](#)
[Contacts](#)
[eBusiness](#)
[eBiz alerts](#)
[News](#)
[Help](#)
[Logout](#)

Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

TARR Status

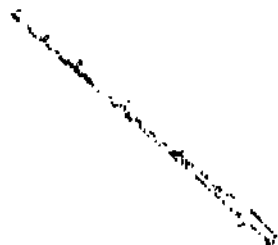
ASSIGN Status

TDR

TTAB Status

(Use the "Back" button of the Internet

Browser to return to TESS)



Goods and Services

IC 028. US 022. G & S: Fishing Rods. FIRST USE: 19760309. FIRST USE IN COMMERCE: 19760407

Mark Drawing Code

(2) DESIGN ONLY

Design Search Code

21.03.08 - Fish nets; Fishing hooks; Fishing lures; Fishing rods; Fishing tackle; Hooks, fishing; Lures, fishing; Nets, fish; Reels, fishing; Tackle, fishing
 26.17.25 - Other lines, bands or bars
 29.03.10 - Clear or translucent (single color used on a portion of the goods)
 29.06.09 - White (Multiple colors used on a portion of the goods)
 29.06.10 - Clear or translucent (Multiple colors used on a portion of the goods)

Serial Number 73169243

Filing Date May 5, 1978

Current Filing Basis 1A

Original Filing Basis 1A

Published for Opposition December 22, 1981

Registration Number 1261786

Registration Date December 20, 1983

Owner (REGISTRANT) Shakespeare Company CORPORATION DELAWARE P.O. Box 246 Columbia SOUTH CAROLINA 29202

(LAST LISTED OWNER) SHAKESPEAR COMPANY, LLC LTD LIAB CO DELAWARE 3801 WESTMORE DRIVE COLUMBIA SOUTH CAROLINA 29223

Assignment Recorded

ASSIGNMENT RECORDED

Attorney of

Complaint
EXHIBIT B

Record JULIE C. VAN DERZANDEN

Disclaimer Applicant claims no proprietary right in the configuration of the fishing rod itself as a trademark when it lacks the whitish, translucent tip portion feature.

Description of Mark The mark is used by applying it to the goods in that the mark is the color configuration of the fishing rod as shown in the drawing in which the tip portion of the shaft between the tip and the second line guide elements consists of a whitish, translucent material in contrast to the opaque remainder of the shaft. The unshaded portion of the drawing represents the whitish, translucent tip portion feature on the shaft.

Type of Mark TRADEMARK

Register PRINCIPAL-2(F)

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20031208.

Renewal 1ST RENEWAL 20031208

Live/Dead Indicator LIVE

[CLASS NUMBER](#)
[NEW USER](#)
[SEARCH USER](#)
[FREE FORM](#)
[Database](#)
[SEARCH LOG](#)
[TOP](#)
[HELP](#)

[HOME](#) |
 [SITE INDEX](#) |
 [SEARCH](#) |
 [BUSINESS](#) |
 [HELP](#) |
 [PRIVACY POLICY](#)

**Complaint
EXHIBIT B**

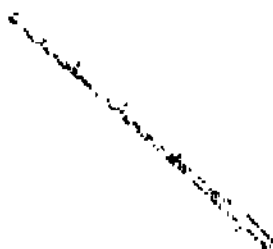
Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-01-17 14:10:49 ET

Serial Number: 73169243 Assignment Information

Registration Number: 1261786 Assignment Information

Mark



Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2003-12-08

Filing Date: 1978-05-05

Transformed into a National Application: No

Registration Date: 1983-12-20

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-12-09

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. SHAKESPEAR COMPANY, LLC

Address:

SHAKESPEAR COMPANY, LLC

3801 WESTMORE DRIVE

COLUMBIA, SC 29223

United States

Legal Entity Type: Ltd Liab Co

State or Country Where Organized: Delaware

**Complaint
EXHIBIT B**

GOODS AND/OR SERVICES

International Class: 028

Fishing Rods

First Use Date: 1976-03-09

First Use in Commerce Date: 1976-04-07

Basis: 1(a)

ADDITIONAL INFORMATION

Disclaimer: Applicant claims no proprietary right in the configuration of the fishing rod itself as a trademark when it lacks the whitish, translucent tip portion feature.

Description of Mark: The mark is used by applying it to the goods in that the mark is the color configuration of the fishing rod as shown in the drawing in which the tip portion of the shaft between the tip and the second line guide elements consists of a whitish, translucent material in contrast to the opaque remainder of the shaft. The unshaded portion of the drawing represents the whitish, translucent tip portion feature on the shaft.

Section 2(f)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-12-08 - First renewal 10 year

2003-12-08 - Section 8 (10-year) accepted/ Section 9 granted

2003-09-10 - Combined Section 8 (10-year)/Section 9 filed

2003-09-10 - TEAS Section 8 & 9 Received

2002-07-17 - TEAS Change of Correspondence Received

1989-10-24 - Section 8 (6-year) accepted & Section 15 acknowledged

1989-09-11 - Section 8 (6-year) and Section 15 Filed

1983-12-20 - Registered - Principal Register

1983-12-20 - Registered - Principal Register

1981-12-22 - Published for opposition

1981-11-09 - Notice of publication

1981-11-05 - Approved for Pub - Principal Register (Initial exam)

**Complaint
EXHIBIT B**

1979-01-19 - Non-final action mailed

1978-07-03 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

JULIE C. VAN DERZANDEN (Attorney of record)

JULIE C. VANDERZANDEN
K2 INC.
19215 VASHON HIGHWAY SW
VASHON WA 98070

Phone Number: 206-463-8268

Fax Number: 206-463-8880

**Complaint
EXHIBIT B**

Shakespeare[®]

SINCE 1897



**America's Strongest,
Most Sensitive Rod.**

America's #1 Selling Rod

- Graphite inner core for sensitivity.

- E-Glass outer layer for flexibility and toughness.

- Clear Tip[®] Design.

- America's Strongest, Most Sensitive Rod.

- Exclusive 7-Year Warranty.

**7 Year
Warranty**

**GRAPHITE
CORE**

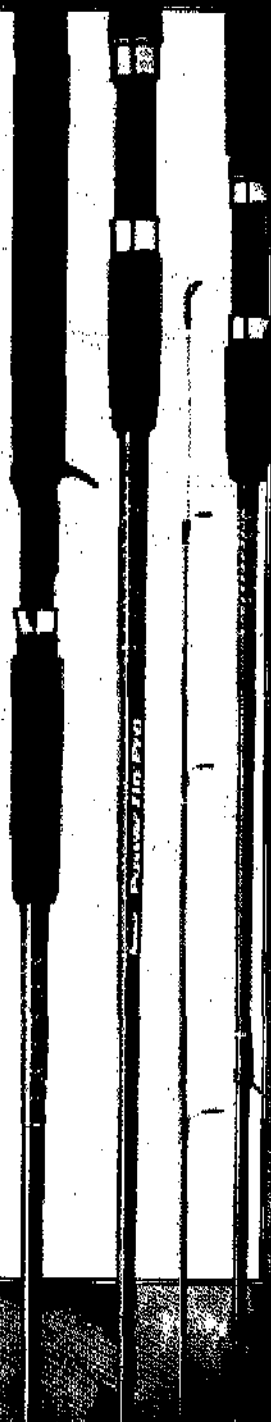
**Ugly
Stik[®]**

Shakespeare[®]

SINCE 1897

Visit our website and get to know the whole Ugly family.
www.shakespeare-fishing.com

POWER TIP® PRO FRESHWATER

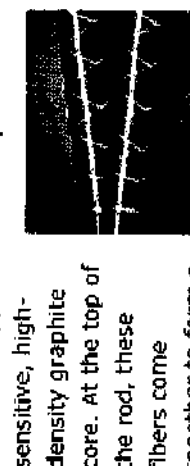


SCION | MATRIX | VISION | LUCILLE | EXTANT | POWER TIP | SHORELINE | HOME

► PowerTip® Pro Freshwater

Here's a rod series that's ready for heavyweight river strippers, deep lake trout, or scrappy pond crapple. From 2-pound line to 25-pound, there's a

PowerTip® Freshwater Rod that can pass the test. Pinnacle® PowerTip® Pro Rods feature our Dual Layer Blank Construction. In this process, a protective shield of longitudinal super-strong glass fibers is wrapped around a super-



sensitive, high-density graphite core. At the top of the rod, these fibers come together to form a solid, unbreakable fiberglass tip, so you're assured of a super-strong, long-lasting rod that will transmit even the gentlest nibble.

► PowerTip® Pro Freshwater Features

- Exclusive PowerTip® Dual Layer Construction
- Solid Unbreakable fiberglass tip
- Hand-tied diamond wrap
- Anodized black frame guides with black insert
- Cushioned stainless steel hoods
- Comfortable black non-slip EVA handle
- Under-wrapped guide

► PowerTip® Pro Freshwater Spec

Model	Length	Action	Line Wt.	Reel Seat Type
PTP501SPUL	5'0"	Ultra Light	2-6	Spinning
PTP502SPM	5'0"	Medium	6-12	Spinning
PTP5102SPM	5'10"	Medium	6-15	Spinning
PTP561SPL	5'6"	Light	4-10	Spinning
PTP562SPL	5'6"	Light	4-10	Spinning
PTP601SPH	6'0"	Heavy	8-20	Spinning
PTP602SPM	6'0"	Medium	6-15	Spinning

Complaint
EXHIBIT D

PTP661SPM	6'6"	Medium	6-15	Spinning
PTP661SPMH	6'6"	Medium Heavy	8-20	Spinning
PTP662SPM	6'6"	Medium	6-15	Spinning
PTP702SPM	7'0"	Medium	6-15	Spinning
PTP802SN	8'0"	Medium	4-20	Spinning
PTP902SN	9'0"	Medium	4-20	Spinning
PTP1002SN	10'0"	Medium	4-20	Spinning
PTP561CAM	5'6"	Medium	8-20	Trigger
PTP601CAM	6'0"	Medium	12-20	Trigger
PTP602CAM	6'0"	Medium	12-20	Trigger
PTP662CAMH	6'6"	Medium Heavy	14-25	Trigger
PTP701CA	7'0"	Medium	8-17	Trigger
PTP702CAML	7'0"	Medium Light	8-20	Trigger
PTP601BWCH	6'0"	Medium	15-25	Trigger
PTP661BWCMH	6'6"	Medium Heavy	12-20	Trigger
PTP701BWCMH	7'0"	Medium Heavy	12-30	Trigger
PTP702DR	7'0"	Downrigger	8-20	Trigger
PTP802CHDD	8'0"	Dipsy Diver	14-50	Casting
PTP862DR	8'6"	Downrigger	6-20	Casting

Bend a PowerTip® severely in a wrenching hookset or fighting a huge trophy and because the anodized black frame guides are unwrapped they can't destroy the blank by biting into it. Cushioned steel hoods hold your reel firmly in place and a comfy black non-slip EVA handle lets you keep a grip on anything from the meanest musky to the biggest bass. PowerTip® gives you all the toughness and dependability you need. All that, and a light touch to boot.

► PowerTip® Pro Freshwater Suggested Retail Price

• PTP501SPUL	\$24.99
• PTP502SPM	\$24.99
• PTP5102SPM	\$24.99
• PTP561SPL	\$24.99
• PTP562SPL	\$24.99
• PTP601SPH	\$24.99
• PTP602SPM	\$24.99
• PTP661SPM	\$24.99
• PTP661SPMH	\$24.99
• PTP662SPM	\$24.99
• PTP702SPM	\$24.99
• PTP802SN	\$28.99
• PTP902SN	\$28.99
• PTP1002SN	\$28.99
• PTP561CAM	\$24.99
• PTP601CAM	\$24.99
• PTP602CAM	\$24.99
• PTP662CAMH	\$24.99
• PTP701CA	\$24.99
• PTP702CAML	\$24.99
• PTP601BWCH	\$24.99
• PTP661BWCMH	\$24.99
• PTP701BWCMH	\$24.99
• PTP702DR	\$28.99

**Complaint
EXHIBIT D**

\$28.99
\$28.99

• PTP802CHDD
• PT862DR

HOME | PRODUCT GUIDE | TECHNICAL HIGHLIGHTS | PRODUCT REGISTRATION | CUSTOMER SERVICE | TOP



Complaint
EXHIBIT D

PowerTip® Pro Bigwater



HOME

SHORELINE

POWERTIP

EXTANT

LUCILLE

VISION

MATRIX

SCION

PowerTip® Pro Bigwater

In the ocean, survival of the fittest is always the rule. That's why pound for pound, saltwater fish are the hardest fighters. After all, no matter how big the fish, there's probably something bigger down there that wants to eat him. So when you fish the sea, you need a rod that can handle both feisty fish and severe elements. A rod like the PowerTip® Bigwater Rod. These battle-tested rods are not only sensitive to the softest hit, but they can stand up to sun, salt, and the toughest fish that swim.

Each PowerTip® begins with Dual Layer Construction: A protective shield of longitudinal super-strong glass fibers wrapped around a super-sensitive, high-density graphite core. These fibers come together and form a solid, unbreakable

PowerTip® Pro Bigwater Features

- Exclusive PowerTip® Dual Layer Construction
- Solid Unbreakable fiberglass tip
- Hand-tied diamond wrap
- Anodized black frame guides with black insert
- Cushioned stainless steel hoods
- Comfortable black non-slip EVA handle
- Under-wrapped guide

PowerTip® Pro Bigwater Spec

Model	Length	Action	Line Wt.	Reel Seat Type
PTP601BR	6'0"	Medium	15-30	Casting
PTP661BR	6'6"	Medium	15-40	Casting
PTP701BWCL	7'0"	Light	12-30	Trigger
PTP601BWSH	6'0"	Heavy	15-30	Spinning
PTP661BWS	6'6"	Medium	12-30	Spinning
PTP701BWS	7'0"	Medium	12-30	Spinning
PTP701BWSML	7'0"	Medium Light	12-25	Spinning

Complaint
EXHIBIT D

fiberglass tip that is clear.

Polished aluminum oxide line guide inserts hold up to wire leaders, high test-pound mono and the stress of casting heavy lead weights. Guides are underwrapped to protect the blank in fish lifting bends. The stainless steel hoods won't rust. And the high density EVA handles are both durable and comfortable, even after hours of hard fishing.

PTP701BWSH	7'0"	Heavy	15-40	Spinning
PTP702BWSM	7'0"	Medium	12-30	Spinning
PTP802BWSL	8'0"	Light	10-25	Spinning
PTP902BWSMH	9'0"	Medium Heavy	12-30	Spinning
PTP1002BWSM	10'0"	Medium	15-40	Spinning
PTP1202BWSM	12'0"	Medium	15-40	Spinning

▶ PowerTip® Pro Bigwater Suggested Retail Price

• PTP601BR	\$28.99
• PTP661BR	\$28.99
• PTP701BWCL	\$28.99
• PTP601BWSH	\$28.99
• PTP661BWS	\$28.99
• PTP701BWS	\$28.99
• PTP701BWSML	\$28.99
• PTP701BWSH	\$28.99
• PTP702BWSM	\$28.99
• PTP802BWSL	\$28.99
• PTP902BWSMH	\$28.99
• PTP1002BWSM	\$28.99
• PTP1202BWSM	\$28.99

HOME | PRODUCT GUIDE | TECHNICAL HIGHLIGHTS | PRODUCT REGISTRATION | CUSTOMER SERVICE | TOP

**Complaint
EXHIBIT D**

World's Strongest Rod

- Dual Layer Construction
- Solid Unbreakable Fiberglass Tip
- Hand-Tied Diamond Wrap



Pinnacle®
RODS & REELS

Pinnacle®
RODS & REELS

PowerTip®
PRO



Complaint
EXHIBIT E